

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GENERAL ELECTRIC COMPANY,

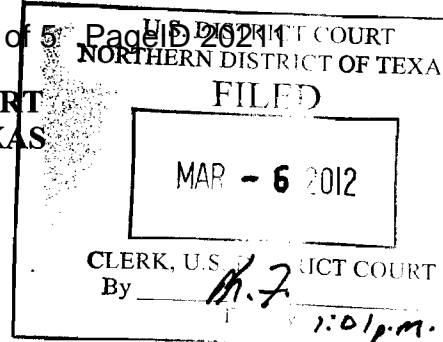
Plaintiff,

v.

mitsubishi heavy industries,
LTD., and MITSUBISHI POWER
SYSTEMS
AMERICAS, INC.,

Defendants.

CIVIL ACTION NO.
3:10-CV-276-F



**mitsubishi's PROFFER OF EXPERT TESTIMONY
REGARDING NONINFRINGEMENT**

Mitsubishi Heavy Industries, Ltd. ("MHI Ltd.") and Mitsubishi Power Systems Americas, Inc. (collectively "Mitsubishi") hereby proffer the following expert testimony relating to noninfringement that was excluded from evidence on March 5, 2012.

- 1. Configuring the electrical machine such that the electrical machine remains electrically connected to the electric power system during and subsequent to a voltage amplitude of the electric power system operating outside of a predetermined range for an undetermined period of time.**

and

Configuring the electrical machine and the control system such that the electrical machine remains electrically connected to the electric power system during and subsequent to the voltage amplitude of the electric power system decreasing below the predetermined range including approximately zero volts for the undetermined period of time, thereby facilitating zero voltage ride through (ZRVt).

Dr. Ehsani would have testified that GE did not present evidence that this step has been practiced in the United States or that it has been practiced after the '705 patent issued.

Q: Dr. Ehsani, what did Dr. Grady identify in Mitsubishi's turbine as being set up to satisfy these "configuring" steps?

A: **The firmware of the converter control unit ("CCU") in the 2.4 MW turbine.**

Q: When do you believe the firmware of the CCU is "configured" or "set up"?

A: **One of ordinary skill in the art would understand that the control logic is "set up" in the CCU when it is loaded onto the CCU.**

Q: Have you heard testimony about where the firmware is loaded?

A: **Yes - Spain.**

Q: Is that true for both configuring steps?

A: **Yes.**

Q: Have you heard testimony about when the firmware in the accused turbines was loaded?

A: **I have heard that the turbines accused of infringing were manufactured before the patent issued, so I understand that the firmware was installed in the CCUs before the patent issued.**

2. Electrically coupling at least a portion of a control system to at least a portion of the electric power system

Dr. Ehsani would have testified that GE presented no evidence that this step is performed by MHI or MPSA.

Q: Dr. Ehsani, how would one of ordinary skill in the art understand this limitation to be performed?

A: **One of ordinary skill would understand that the '705 patent uses the term "coupling" consistent with its ordinary meaning: connecting.**

Q: Dr. Ehsani, have you heard any evidence regarding who performs this claim limitation?

A: **No. Dr. Grady testified that all steps of claim 1 are performed during commissioning, but I heard no evidence that either MHI or MPSA connects the control system to the grid.**

3. Coupling the control system in electronic data communication with at least a portion of the electrical machine

Dr. Ehsani would have testified that GE did not present evidence that this step has been practiced in the United States or that it has been practiced after the '705 patent issued.

Q: Dr. Ehsani, how would one of ordinary skill in the art understand this limitation to be performed?

A: **As I mentioned earlier, one of ordinary skill would understand that "coupling" in the context of the '705 patent means connecting.**

Q: Does the patent indicate that the electrical machine has to be operating for the control system to be coupled to the electrical machine?

A: **No, the patent uses the term "coupling" to describe connection - it does not require that the turbine actually be running for components to be coupled.**

Q: Have you heard any testimony on whether the fiber optic connections between the converter and CCU that Dr. Grady testified satisfy this limitation are made in the United States?

A: **No, I have not.**

Q: Have you heard any testimony on whether the fiber optic connections between the converter and CCU that Dr. Grady testified satisfy this limitation were made after the '705 patent issued?

A: **No, I have not.**

Dated: March 6, 2012

Respectfully submitted,

By: 

Vic H. Henry

Texas Bar # 09484250

vhhenry@hoaf.com

Lane Fletcher

Texas Bar # 07139300

lanefletcher@hoaf.com

HENRY ODDO AUSTIN & FLETCHER

a Professional Corporation

1700 Pacific Avenue, Suite 2700

Dallas, Texas 75201

Telephone: (214) 658-1900

Facsimile: (214) 658-1919

Roger D. Taylor (admitted *pro hac vice*)

Virginia L. Carron (admitted *pro hac vice*)

Cortney S. Alexander (admitted *pro hac vice*)

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, L.L.P.

3500 SunTrust Plaza

303 Peachtree Street, N.E.

Atlanta, GA 30308-3263

Phone: (404) 653-6400

Facsimile: (404) 653-6444

Thomas H. Jenkins (admitted *pro hac vice*)

Thomas W. Winland (admitted *pro hac vice*)

Naoki Yoshida (admitted *pro hac vice*)

Jeffrey C. Totten (admitted *pro hac vice*)

Tyler M. Akagi (admitted *pro hac vice*)

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, L.L.P.

901 New York Avenue, N.W.

Washington, D.C. 20001

Phone: (202) 408-4000

Facsimile: (202) 408-4400

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been served via hand delivery on GE's counsel of record in accordance with the Federal Rules of Civil Procedure on this the 6th day of **March 2012**.



A handwritten signature in black ink, appearing to read "Courtney A. Kelly", is written over a horizontal line.